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DATE: March 28, 2017

[POST FOR INMATES]

TO: All DAI Inmates

FROM: Jim Schwochert, Administrator
Division of Adult Institutions

A handwritten signature in black ink, appearing to read "Jim Schwochert", written over the printed name.

SUBJECT: Changes to Positive Adjustment Time (PAT) & Certain Earned Release (CER)

The Wisconsin Supreme Court decision in *State ex rel. Aman Singh v. Paul Kemper*, 2016 WI 67, and the Wisconsin Court of Appeals decision in *State ex rel. Aman Singh v. Paul Kemper*, 2014 WI App 43, 353 Wis. 2d 520, 846 N.W.2d 820, impact the repeal of 2009 WI Act 28 and the implementation of 2011 WI Act 38.

I. Positive Adjustment Time (PAT)

Wisconsin Stat § 973.198 was not found to be unconstitutional other than the time frame for filing the petition; therefore, it is DOC's expectation that inmates shall continue to use the § 973.198 process and the related Court forms.

Eligible inmates may file the petition 90 days prior to the completion of the confinement portion less positive adjustment time earned.

- Eligibility for PAT is determined on when a crime was committed or an offender was convicted or sentenced as follows:
 - An inmate serving a sentence imposed prior to October 1, 2009, for a crime committed after December 30, 1999, who has earned positive adjustment time under s. 302.113, 2009 stats., or under s. 304.06, 2009 stats., may earn PAT, based on the number of days of positive adjustment time earned between October 1, 2009, and August 3, 2011.
 - An inmate serving a sentence for a crime committed, conviction entered, or sentence imposed between October 1, 2009, and August 3, 2011, who has earned positive adjustment time under s. 302.113, 2009 stats., or under s. 304.06, 2009 stats., may earn PAT, based on the number of days of positive adjustment time earned between October 1, 2009, and discharge from the sentence.

In no way is a petition for PAT a guarantee of an early release. **Early release, which is granted by the Court, is a privilege to be earned.**

II. Certain Earned Release (CER)

DOC will soon begin the review of eligible inmates for CER. If you believe that you meet the criteria as outlined in DOC § 302.113(9h) Administrative Code, you may contact your Records Office.

- Eligible inmates with an offense committed, or convicted, or sentenced between October 1, 2009, and August 3, 2011, **may** earn CER during the confinement or re-confinement period of a sentence.
- Inmates may be eligible if the release to ES date is not more than 12 months before the inmate's calculated release date.
- DAI 302.00.09 Certain Earned Release outlines exclusions.

In no way is a review for CER a guarantee for an early release. **Early release, which is granted by the DOC, is a privilege to be earned.**

III. Resources

Please refer to the Singh decisions, 2011 WI Act 38, and 2009 WI Act 28, as well as all related statutes, administrative code sections, and case law for additional information. DOC staff is not able to provide legal advice. You may wish to contact your attorney or the Legal Assistance for Institutionalized Persons (LAIP) for additional assistance.

The Records Office will be working diligently to review all inmates who may be impacted by this process. Please be patient as the Records Office staff work through this process.

cc: Jon E. Litscher, DOC Secretary
Cathy Jess, DOC Deputy Secretary
Patrick Hughes, DOC Assistant Deputy Secretary
Wendy Monfils, DAI OMB Director
DOC Corrections Complaint Examiners
DAI Institution Complaint Examiners
DAI Wardens